

HOUSE BILL No. 1312

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-24.5.

Synopsis: Security freezes for protected consumers. Defines "protected consumer" as: (1) an individual who is less than 16 years of age; or (2) an incapacitated person for whom the court has appointed a guardian. Allows a representative who has authority to act on behalf of a protected consumer to place a security freeze on the protected consumer's consumer report or, if the protected consumer does not have a consumer report, a record created by the consumer reporting agency. Establishes requirements concerning security freezes similar to those in the security freeze law for consumers.

Effective: July 1, 2014.

Forestal

January 15, 2014, read first time and referred to Committee on Judiciary.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1312

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-5-24.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]:
4 **Chapter 24.5. Security Freezes for Protected Consumers**
5 **Sec. 1. As used in this chapter, "consumer report" has the**
6 **meaning set forth in IC 24-5-24-2.**
7 **Sec. 2. As used in this chapter, "consumer reporting agency"**
8 **has the meaning set forth in IC 24-5-24-3.**
9 **Sec. 3. As used in this chapter, "protected consumer" means an**
10 **individual whose principal residence is in Indiana and who is:**
11 **(1) less than sixteen (16) years of age; or**
12 **(2) an incapacitated person (as defined under IC 29-3-1-7.5)**
13 **for whom a court has appointed a guardian.**
14 **Sec. 4. As used in this chapter, "record" means a compilation of**
15 **information that:**
16 **(1) identifies a protected consumer;**



(2) is created by a consumer reporting agency solely for the purpose of complying with this chapter; and

(3) is not created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

Sec. 5. As used in this chapter, "representative" means a person who:

(1) is:

(A) a parent or legal guardian of an individual who is less than sixteen (16) years of age; or

(B) a guardian of an incapacitated person (as defined under IC 29-3-1-7.5) appointed by a court; and

(2) authorized to act on behalf of the individual described in subdivision (1)(A) or incapacitated person described in subdivision (1)(B).

Sec. 6. As used in this chapter, "security freeze" means a designation placed by a credit reporting agency on a protected consumer's:

(1) consumer report; or

(2) record;

that prohibits the consumer reporting agency from releasing the protected consumer's consumer report or record without authorization of the representative as provided in this chapter.

Sec. 7. (a) Subject to subsection (b), a representative may place a security freeze on a protected consumer's consumer report or record by:

(1) sending a written request by United States mail to an address designated by the consumer reporting agency; or

(2) subject to subsection (f), making a request to a consumer reporting agency through a secure electronic mail connection provided by the consumer reporting agency.

(b) Before a security freeze may be placed on a protected consumer's consumer report or a record under this section, the representative shall provide the following to a consumer reporting agency:

(1) At least one (1) of the following that shows the representative has authority to act on behalf of a protected consumer:

(A) An order issued by a court of law.

(B) A lawfully executed and valid power of attorney.

(C) A written, notarized statement signed by the representative that states that the representative is the



parent or legal guardian of the protected consumer, the protected consumer is less than sixteen (16) years of age, and the representative has the authority to act on behalf of the protected consumer.

(2) At least two (2) of the following forms of identification for both the protected consumer and the representative:

(A) A Social Security number or a copy of a Social Security card issued by the federal Social Security Administration.

(B) A certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate.

(C) A copy of a valid state issued driver's license, a valid state issued identification card, or any other government issued identification.

(D) A copy of a bill, including a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and home address of the protected consumer or the representative.

(c) Except as provided in subsection (e) and section 13 of this chapter, a consumer reporting agency that receives a request under subsection (a) shall place a security freeze on the protected consumer's consumer report not later than fourteen (14) business days after receipt of the request.

(d) Except as provided in subsection (e) and section 13 of this chapter, a consumer reporting agency that receives a request under subsection (a) for a protected consumer for whom a consumer report does not exist shall:

(1) create a record for the protected consumer; and

(2) place a security freeze on the record;

not later than fourteen (14) business days after receipt of the request.

(e) A consumer reporting agency is not required to place a security freeze on a consumer report under this section if the consumer reporting agency determines that the request for a security freeze:

(1) is materially false;

(2) does not clearly identify the protected consumer or representative; or

(3) does not show that the representative has authority to act on behalf of the protected consumer.

(f) Not later than January 1, 2015, a consumer reporting agency shall develop and make available a secure electronic mail connection by which:



(1) a representative can request the placement of a security freeze on a protected consumer's consumer report or record under this section;

(2) a representative can request the same or a new personal identification number or password as described in section 8(b)(3)(A) of this chapter; and

(3) a protected consumer can request a new personal identification number or password as described in section 8(b)(3)(B) of this chapter.

Sec. 8. (a) Not later than twenty-four (24) business days after receiving a request for a security freeze under section 7 of this chapter, a consumer reporting agency shall issue to the representative a written confirmation that:

(1) if the consumer has a consumer report, a security freeze has been placed on the protected consumer's consumer report; or

(2) if the protected consumer does not have a consumer report, the consumer reporting agency has:

(A) created a record for the protected consumer; and

(B) placed a security freeze on the record.

(b) The confirmation under subsection (a) must include the following:

(1) A unique:

(A) personal identification number; or

(B) password;

other than the protected consumer's Social Security number, or any multiple digit segment of the protected consumer's Social Security number, to be used by the representative to perform any of the acts described in subdivision (2).

(2) Written instructions explaining how the representative may:

(A) release the protected consumer's consumer report to one (1) or more specified third parties;

(B) temporarily lift the security freeze for a specified period; or

(C) remove the security freeze.

(3) Written instructions explaining how:

(A) the representative may request, using one (1) of the methods described in section 7(a) of this chapter, that the consumer reporting agency issue the same or a new personal identification number or password to the representative if the representative fails to retain the



original personal identification number or password issued by the consumer reporting agency under subdivision (1); and

(B) the protected consumer may request, using one (1) of the methods described in section 7(a) of this chapter, that the consumer reporting agency issue a new personal identification number or password to the protected consumer if the representative no longer has authority to act on behalf of the protected consumer.

(c) Upon receiving a request described in subsection (b)(3)(A) from a representative, the consumer reporting agency shall issue the same or a new personal identification number or password to the requesting representative if the representative has provided the information described in section 7(b) of this chapter.

(d) Upon receiving a request described in subsection (b)(2)(B) from a protected consumer, the consumer reporting agency shall issue a new personal identification number or password to the requesting protected consumer if the consumer provides all the following:

(1) Sufficient documentation to the consumer reporting agency that the representative's authority to act on behalf of the protected consumer is no longer valid.

(2) At least two (2) of the following:

(A) A Social Security number or a copy of a Social Security card of the protected consumer issued by the federal Social Security Administration.

(B) A certified or official copy of a birth certificate for the protected consumer issued by the entity authorized to issue the birth certificate.

(C) A copy of a valid state issued driver's license, a valid state issued identification card, or any other government issued identification of the protected consumer.

(D) A copy of a bill, including a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and home address of the protected consumer.

(e) If the representative's or protective consumer's request is made using the method described in section 7(a)(1) of this chapter, the consumer reporting agency shall send, by United States mail, the personal identification number or password to the representative or protected consumer not later than five (5) business days after receiving the representative's or protected



consumer's request. If the representative's or consumer's request is made using the method described in section 7(a)(2) of this chapter, the consumer reporting agency shall issue the personal identification number or password not later than:

(1) subject to the exceptions set forth in sections 9(e)(2) and 11(d)(2) of this chapter, as applicable, fifteen (15) minutes after receiving the request, if the consumer reporting agency elects to issue the personal identification number or password by a secure electronic mail connection provided by the consumer reporting agency under section 7(f) of this chapter;

or

(2) five (5) business days after receiving the request, if the consumer reporting agency elects to issue the personal identification number or password by United States mail.

(f) If a consumer reporting agency issues a new personal identification number under subsection (d) to a protected consumer, the personal identification number or password issued to the representative of the protected consumer may no longer be used by the representative to perform any of the acts described in subsection (b)(2).

(g) If a protected consumer is issued a new personal identification number or password under subsection (d), the consumer is no longer considered a protected consumer under this chapter, IC 24-5-24 applies, and any security freeze on the protected consumer's consumer report is treated as if the consumer placed the security freeze under IC 24-5-24.

Sec. 9. (a) Except as provided in section 12 of this chapter, if a security freeze has been placed on a protected consumer's consumer report or record, the consumer reporting agency that placed the security freeze on the protected consumer report or record shall not release the protected consumer's consumer report or record unless the representative authorizes the consumer reporting agency to:

(1) release the protected consumer's consumer report to one

(1) or more specified third parties; or

(2) temporarily lift the security freeze for a specified period.

(b) A representative who seeks to authorize the release of the protected consumer's consumer report under subsection (a)(1) or the protected consumer's consumer report or record under subsection (a)(2) shall request the release by contacting the consumer reporting agency by any method:

(1) described in section 7(a) of this chapter; or



(2) developed by the consumer reporting agency under subsection (d).

(c) A request by a representative under subsection (b) must include the following:

(1) The same information as that required under section 7(b) of this chapter.

(2) The unique personal identification number or password assigned to the representative under section 8(b)(1) or 8(c) of this chapter.

(3) If the representative seeks to authorize the release of the protected consumer's consumer report under subsection (a)(1), information sufficient to identify the parties to whom the consumer report is to be released, as specified by the consumer reporting agency in the instructions provided to the representative under section 8(b)(2) of this chapter.

(4) If the representative seeks to authorize the consumer reporting agency to temporarily lift a security freeze under subsection (a)(2), the period during which the security freeze is to be temporarily lifted.

(d) Not later than January 1, 2015, a consumer reporting agency shall develop and make available to representatives secure procedures to authorize the release of a protected consumer's consumer report or record under subsection (a)(1), the temporary lifting of a security freeze under subsection (a)(2), or the removal of a security freeze under section 11 of this chapter, within fifteen (15) minutes after receiving a request, by any of the following methods:

(1) Telephone.

(2) The Internet.

(3) Other electronic media, if provided by the consumer reporting agency.

The procedures developed by a consumer reporting agency under this subsection must require the representative to provide the information set forth in subsection (c).

(e) A consumer reporting agency that receives a request from a representative under this section shall comply with the request within the following time frames:

(1) Not later than three (3) business days after receiving the request, if the representative makes the request by the method described in section 7(a)(1) of this chapter.

(2) Not later than fifteen (15) minutes after receiving the request, if the representative makes the request using the



method described in section 7(a)(2) of this chapter or by any method developed by the consumer reporting agency under subsection (d). However, a consumer reporting agency is not required to comply with a representative's request within the fifteen (15) minute time frame set forth in this subdivision if:

(A) the representative does not provide one (1) or more of the items listed in subsection (c); or

(B) the consumer reporting agency's ability to comply with the request within the fifteen (15) minute time frame set forth in this subdivision is prevented by an act listed in IC 24-5-24-9(c)(2)(B).

Sec. 10. (a) A third party that requests a protected consumer's consumer report in connection with an application by the protected consumer for credit shall treat the application for credit as incomplete if:

(1) a security freeze has been placed on the protected consumer's consumer report or record;

(2) the representative has not authorized the release of the protected consumer's consumer report or record under section 9 of this chapter; and

(3) the consumer reporting agency refuses to release the consumer report to the third party based on subdivisions (1) and (2).

(b) A consumer reporting agency that refuses under subsection (a)(3) to release a consumer report shall notify the third party requesting the consumer report of the existence of a security freeze as the basis for the refusal to release the consumer report to the third party.

(c) A consumer reporting agency shall not:

(1) state; or

(2) otherwise imply;

to a third party that the protected consumer's security freeze under this chapter reflects a negative credit score, history, report, or rating.

Sec. 11. (a) A security freeze remains in effect until the representative who requested the security freeze requests that the security freeze be removed.

(b) A representative who seeks to authorize a consumer reporting agency to remove a security freeze shall request the removal by contacting the consumer reporting agency by any method:

(1) described in section 7(a) of this chapter; or



(2) developed by a consumer reporting agency under section 9(d) of this chapter for receiving a consumer's request to authorize the release of a consumer report or the temporary lifting of a security freeze.

(c) A request by a representative under subsection (a) must include the following:

(1) The same information as that required under section 7(b) of this chapter.

(2) The unique personal identification number or password assigned to the consumer under section 8(b)(1) or 8(c) of this chapter.

(d) Subject to subsection (e), a consumer reporting agency must remove a security freeze within the following time frames:

(1) Not later than three (3) business days after receiving a request under subsection (a), if the representative makes the request by the method described in section 7(a)(1) of this chapter.

(2) Not later than fifteen (15) minutes after receiving a request under subsection (a), if the representative makes the request using the method described in section 7(a)(2) of this chapter or by any method developed by the consumer reporting agency under section 9(d) of this chapter. However, a consumer reporting agency is not required to comply with a representative's request within the fifteen (15) minute time frame set forth in this subdivision if:

(A) the representative does not provide one (1) or more of the items listed in subsection (c); or

(B) the consumer reporting agency's ability to comply with the request within the fifteen (15) minute time frame set forth in this subdivision is prevented by an act listed in IC 24-5-24-9(c)(2)(B).

(e) A consumer reporting agency is not required to remove a security freeze under this section if the consumer reporting agency determines that the request to remove the security freeze:

(1) is materially false;

(2) does not clearly identify the protected consumer or representative; or

(3) does not show that the representative has authority to act on behalf of the protected consumer.

Sec. 12. The placement of a security freeze on a protected consumer's consumer report does not prohibit a consumer reporting agency from providing the consumer's consumer report



1 to the following persons without the authorization of the
2 representative:

3 (1) A person, including a subsidiary, an affiliate, an agent, an
4 assignee of a financial obligation owed by the protected
5 consumer to the person, or a prospective assignee of a
6 financial obligation owed by the protected consumer to the
7 person in connection with the proposed purchase of the
8 financial obligation, to whom the protected consumer owes a
9 financial obligation in connection with any of the following:

10 (A) An account, including a demand deposit account, that
11 the protected consumer has with the person, for the
12 purpose of:

13 (i) reviewing the account, including activities related to
14 account maintenance, monitoring, credit line increases,
15 and account upgrades and enhancements; or

16 (ii) collecting the obligation owed in connection with the
17 account.

18 (B) A contract, for the purpose of collecting the obligation
19 owed in connection with the contract.

20 (C) A negotiable instrument that the protected consumer
21 has issued to the person, for the purpose of collecting the
22 obligation owed in connection with the negotiable
23 instrument.

24 (2) A person, including a subsidiary, an affiliate, an agent, or
25 an assignee of a financial obligation owed by the protected
26 consumer to the person, to whom the representative has
27 authorized the release of the protected consumer's consumer
28 report under section 9(a)(1) of this chapter, for the purpose of
29 facilitating the extension of credit or for any permissible
30 purpose under subdivision (1).

31 (3) A law enforcement agency.

32 (4) Any person for the purpose of prescreening, as provided
33 in the federal Fair Credit Reporting Act (15 U.S.C. 1681 et
34 seq.).

35 (5) Any person administering a credit monitoring subscription
36 service to which the protected consumer has subscribed.

37 (6) The representative, upon the representative's request, or
38 any other person for the purpose of providing the protected
39 consumer with a copy of the protected consumer's consumer
40 report.

41 (7) Any of the following that provides services to a protected
42 consumer:



- 1 (A) An insurer licensed under IC 27.
- 2 (B) An insurance producer licensed under IC 27.
- 3 (C) An agent, a vendor, or an employee of:
- 4 (i) an insurer licensed under IC 27; or
- 5 (ii) an insurance producer licensed under IC 27;
- 6 while acting on behalf of the insurer or the insurance
- 7 producer.

8 Sec. 13. IC 24-5-24-11 applies to a protected consumer's
9 consumer report under this chapter.

10 Sec. 14. (a) Except as provided in subsection (b), if a security
11 freeze is in place with respect to a protected consumer's consumer
12 report or record, a consumer reporting agency may not change any
13 of the following official information on the protected consumer's
14 consumer report or record without sending written confirmation
15 of the change to the representative not later than thirty (30) days
16 after the change is posted to the protected consumer's consumer
17 report or record:

- 18 (1) Name.
- 19 (2) Date of birth.
- 20 (3) Social Security number.
- 21 (4) Address.

22 (b) Written confirmation is not required under this section for
23 technical modifications of a protected consumer's official
24 information, including changes involving:

- 25 (1) the use of name or street:
 - 26 (A) abbreviations; or
 - 27 (B) complete spellings; or
- 28 (2) transpositions of numbers or letters in a protected
29 consumer's name or address.

30 Sec. 15. (a) A consumer reporting agency may not impose a
31 charge on a representative or protected consumer for a request
32 from the representative or protected consumer to do any of the
33 following:

- 34 (1) Place a security freeze on a consumer's consumer report
35 under section 7 of this chapter.
- 36 (2) Issue the same or a new personal identification number or
37 password to a representative or protected consumer under
38 section 8 of this chapter.
- 39 (3) Creating a record for a protected consumer and placing a
40 security freeze on the record.
- 41 (4) Release a consumer's consumer report to a third party
42 upon request of the representative under section 9(a)(1) of this



chapter. In addition, a consumer reporting agency may not impose a charge on the third party to whom the protected consumer's consumer report is released under section 9(a)(1) of this chapter in connection with the release.

(5) Temporarily lift a security freeze under section 9(a)(2) of this chapter.

(6) Remove a security freeze under section 11 of this chapter.

Sec. 16. (a) A protected consumer who suffers injury by an act of a consumer reporting agency that violates this chapter or the representative of the protected consumer may bring a civil action against the consumer reporting agency in a circuit or superior court in the county in which the protected consumer resides.

(b) A person who knowingly or intentionally fails to comply with any requirement imposed under this chapter with respect to a protected consumer is liable to that protected consumer in an amount equal to the sum of the following:

(1) The greater of:

(A) the amount of actual damages sustained by the protected consumer as a result of the failure to comply; or

(B) five hundred dollars (\$500).

However, the amount awarded to a protected consumer under this subdivision may not exceed six thousand dollars (\$6,000), regardless of the protected consumer's actual damages.

(2) Such punitive damages as the court may allow.

(3) In the case of a successful action by a protected consumer or representative under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

Sec. 17. (a) The attorney general may bring an action to recover from a person on behalf of the state a civil penalty described in subsection (b).

(b) A person who knowingly or intentionally violates this chapter is subject to a civil penalty of:

(1) not more than two thousand five hundred dollars (\$2,500) for a violation or series of violations concerning one (1) protected consumer; or

(2) not more than a total of one hundred thousand dollars (\$100,000) for related violations concerning more than one (1) protected consumer.

Sec. 18. The provisions of this chapter are severable as provided in IC 1-1-8(b).

